

UNION CIRCUIT COURT LOCAL RULES

Pursuant to Trial Rule 81, of the Indiana Rules of Trial Procedure, the Union Circuit Court adopts the following rules to govern the procedure and practice of cases in Union County unless otherwise provided by law or rules of the Supreme Court of Indiana. These rules are promulgated in accordance with TR 81(D), as an exception to the schedule established by the Division of State Court Administration.

All Local Rules of the Court, previously adopted, are hereby repealed.

LR81-CR00-1. CRIMINAL PROCEDURE

(1) RELEASE FROM CUSTODY – PROMISE TO APPEAR

- (a) A person arrested and incarcerated without a warrant should be released from custody within forty-eight (48) hours of arrest unless a judicial determination of probable cause for arrest has been obtained or extraordinary circumstances exists which prohibit the holding of a hearing on probable cause within forty-eight (48) hours.
- (b) A person arrested and incarcerated shall be permitted to post bail consistent with the Court's bail schedule unless otherwise ordered or communicated to the Sheriff by the Judge.
- (c) Prior to release of a person pursuant to the 48 hour rule or upon posting bail, the person must complete a verified promise to appear, on a form approved by the Court, indicating his/her permanent address, home and work telephone numbers, and social security number and promise to appear in the Court at the time designated by the Sheriff. A copy of the Promise to Appear shall be provided to the arrested person and to the Court. The Sheriff shall fax a copy of the Promise to Appear to the Court within twenty-four (24) hours of the arrested person's release.

(2) APPOINTED COUNSEL

- (a) A defendant who is financially unable to obtain counsel is entitled to appointed counsel, except in misdemeanor cases where the prosecution is not seeking a sentence of incarceration. The determination of indigency will usually occur at the initial hearing.
- (b) In such cases where a public defender shall be appointed, the Court will first seek to appoint the contracted attorney. The contracted attorney is an attorney who has a contract with the Union Circuit Court to accept appointed misdemeanor and felony cases subject to his/her contract. In the event the contracted attorney is unable or unwilling to accept a case,

pursuant to his/her contract, or due to a conflict of interest pursuant to the Rules of Professional Conduct, the Court will then seek to appoint an attorney from a list of attorneys who have notified the Court that they would consider accepting pauper cases.

- (c) An attorney who has been appointed under this Rule, shall submit an itemized claim for reimbursement for services rendered at a rate of \$70.00 per hour upon disposition of the case. Disposition for the purpose of this Rule is defined as dismissal, acquittal, or if the person is convicted, after sentencing hearing is completed.
- (d) In cases where the defendant has posted bond, the court appointed lawyer shall advise the Court at a sentencing hearing the number of hours he/she has worked on the particular case.
- (e) In cases where depositions have taken place, the court appointed lawyer shall forward all court reporting fees/invoices to the Court for payment.
- (f) At the time of the initial hearing, a defendant for whom counsel is not appointed or for whom counsel has not entered an appearance, the case will be scheduled for an attorney review hearing and the defendant shall be ordered to appear. If an attorney files a written appearance with the Court prior to the attorney review hearing, neither the defendant nor the attorney shall be required to appear for said hearing.
- (g) The Court may order a person for whom a public defender has been appointed to perform community service during a period of pre-trial release to compensate the county for the value of services.

(3) APPEARANCE OF COUNSEL

- (a) Any attorney representing a defendant shall appear for such a defendant immediately upon being retained or appointed by signing and filing a written appearance containing the attorney's name, attorney number, address, telephone number, and a statement indicating whether counsel will accept service by fax. A copy of this appearance shall be served on the prosecuting attorney.
- (b) The Prosecuting Attorney of Union County may have a standing appearance form filed with the Clerk of Union Circuit Court which shall be deemed of record and applicable in all pending criminal cases, save and except when an individual appearance form is filed by the State of Indiana in a given case.

(4) PRE-TRIAL CONFERENCE

- (a) A pre-trial conference will be scheduled at the initial hearing and otherwise at the Court's discretion. A representative of the prosecutor's office, defense counsel and the defendant shall appear at all pre-trial conferences unless other arrangements are approved by the Court in advance. Failure of the defendant to appear may result in revocation of bond, an increase in bail, and/or the issuance of a warrant. An attorney representing a defendant incarcerated at the time of the pre-trial conference shall meet with the defendant in jail prior to the pre-trial conference. The incarcerated defendant will not be transported to the Court for the pre-trial conference unless otherwise ordered by the Court.

LR81-CR00-2. AUTOMATIC CRIMINAL DISCOVERY RULES

(1) GENERAL PROVISIONS

- (a) Upon the entry of an appearance by an attorney for the Defendant, the State shall disclose and furnish all relevant items and information under this Rule to the Defendant within thirty (30) days from the date of appearance, subject to Constitutional limitations and such other limitation as the Court may specifically provide by separate order, and the Defendant shall disclose and furnish all relevant items and information under this Rule to the State within ten (10) days after the State's disclosure.
- (b) No written motion is required, except:
 - (i) To compel compliance under this rule;
 - (ii) For additional discovery not covered under this rule;
 - (iii) For a protective order seeking exemption from the provisions of this rule; or
 - (iv) For an extension of time to comply with this rule.
- (c) Although each side has a right to full discovery under the terms of this rule, each side has a corresponding duty to seek out the discovery. Failure to do so may result in the waiver of the right to full discovery under this rule.

(2) STATE DISCLOSURES

- (a) The State shall disclose the following materials and information within its possession or control:
 - i. The names and last known addresses of persons whom the State intends to call as witnesses along with copies of their relevant written and recorded statements;
 - ii. Any written, oral, or recorded statements made by the accused or by a co-defendant, and a list of witnesses to the making of statements;

- iii. Any reports or statements or experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons;
- iv. Any books, papers, documents, photographs, or tangible objects that the Prosecuting Attorney intends to use in the hearing or trial or which were obtained from or belong to the accused; and
- v. Any record of prior criminal convictions that may be used for impeachment of the persons whom the State intends to call as witnesses at any hearing or trial.

- (b) The State shall disclose to the Defendant(s) any material or information within its possession or control that tends to negate the guilt of the accused as to the offenses charged or would tend to reduce the punishment for such offenses.

(3) DEFENDANT DISCLOSURES

- (a) Defendant's counsel (or Defendant where Defendant is proceeding pro se) shall furnish to the State with the following material and information within his or her possession or control:
 - i. The names and last known addresses of persons whom the Defendant intends to call as witnesses along with copies of their relevant written and recorded statements;
 - ii. Any books, papers, documents, photographs, or tangible objects that the Defendant intends to use as evidence at any hearing or trial;
 - iii. Any medical, scientific, or expert witness evaluations, statements, reports, or testimony which may be used at any trial or hearing;
 - iv. Any defense, procedural or substantive, which the Defendant intends to make at any hearing or trial; and
 - v. Any record or prior criminal convictions known to the Defendant or defense counsel that may be used for impeachment of the persons whom the defense intends to call at any hearing or trial.

(4) SPECIFIED DISCLOSURES

- (a) Upon a showing of good cause, the Court may at any time order that specified disclosures be restricted or deferred, or make such order as is appropriate.

(5) FAILURE TO COMPLY

- (a) If, at any time during the course of the proceedings, it is brought to the attention of the Court that a party has failed to comply with an applicable discovery rule or an order issued pursuant thereto, the Court may order such party to permit the discovery of material and information not

previously disclosed, grant a continuance, or enter such other order as it deems just, under the circumstances.

- (b) Discovery, after request is made, and pursuant to this rule, shall be completed, insofar as possible, five days prior to pre-trial conference with counsel, as scheduled, without formal order of the Court.
- (c) Willful violation by counsel of an applicable discovery rule or an order issued pursuant thereto may subject counsel to appropriate sanctions by the Court.
- (d) Objections to any request for discovery shall be filled with the Court within ten days after request or motion for discovery is made.

(6) DUTY TO SUPPLEMENT RESPONSES

- (a) The State and the Defendant are under a continuing duty to supplement the discovery disclosure required hereunder as required upon the acquisition of additional information or materials otherwise required to be disclosed hereunder. Supplementation of disclosures shall be made within a reasonable time after the obligation to supplement arises.

LR81-CR00-3. BAIL

(1) SETTING BAIL

- (a) The Court will set the amount of bail that the accused shall be required to post. Warrant arrests shall include the amount of bail on the face of the warrant. Prosecution requests for arrest warrants shall include the prosecution's recommendation regarding bail amount and the reasons therefor. Where charges are filed subsequent to arrest, the probable cause affidavit or oral probable cause submission shall include the prosecution's position as to the appropriate bail.
- (b) Filed motions for re-determination of bail will be given scheduling priority by the Court.

(2) BAIL SCHEDULE (See also the Revised Bond Schedule adopted by this Court on May 9, 2006, currently on file in the General RJO)

- (a) The following is the Court's bail schedule if not otherwise set by the Court:

Murder	No bond
Class A Felony	Set by Court
Class B Felony	\$25,000.00

Class C Felony	\$15,000.00
Class D Felony	\$10,000.00
Class A Misdemeanor	\$3,000.00
Class B Misdemeanor	\$3,000.00
Class C Misdemeanor	\$1,500.00

- (b) The above amounts shall be increased by 100% if the defendant is presently admitted to bail in any Court awaiting final disposition of a pending criminal case.
- (c) In lieu of a full corporate surety bond, the Court will permit a 10% cash bond to be paid to the Clerk, which will be returned to the person posting the bond if the defendant appears for all proceedings, and upon the payment of all restitution, pauper attorney fees, fines, costs, and fees.
- (d) In cases of alleged child abuse, molestations, battery, sexual battery and domestic battery, as a condition of bond, the Defendant shall not (1) enter the property or home where the alleged victim(s) lives or (2) attempt to contact the alleged victim(s) in any manner. Should the defendant encounter (any of) the alleged victim(s) by chance, the Defendant is hereby ordered to make a reasonable effort to avoid contact with the alleged victim(s). Any law enforcement officer who has probable cause to believe that this restriction has been violated shall have the authority to re-arrest the Defendant and hold him/her until a bond hearing may be held.
- (e) A copy of this Bond Schedule will accompany the appearance bond for the Defendant of the alleged criminal offense.

LR81-CP13-4. SPECIAL JUDGE IN CRIMINAL CASES

In the event it becomes necessary to reassign a felony or misdemeanor case pursuant to Criminal Rule 12 or in the event of any type of recusal or disqualification, reassignment of a case to another judge shall be assigned in consecutive order from the following list of judges:

Presiding Judge, Wayne Superior Court I
 Presiding Judge, Wayne Superior Court II
 Presiding Judge, Wayne Superior Court III
 Presiding Judge, Wayne Circuit Court
 Presiding Judge, Fayette Circuit Court
 Presiding Judge, Fayette Superior Court
 Presiding Judge, Rush Circuit Court
 Presiding Judge, Rush Superior Court

The Union County Clerk shall maintain a separate Criminal Special Judge list, in the order of rotation as set forth in this rule, from which the regular sitting judge can determine the appropriate appointment in criminal cases.

LR81-TR79-5. SPECIAL JUDGE IN CIVIL CASES

In the event a special judge selected pursuant to Rule 79(D), (E), or (F) does not accept the case, a special judge shall be designated by the Clerk of the Union Circuit Court in sequence from the following list of judges:

Presiding Judge, Wayne Superior Court I
Presiding Judge, Wayne Superior Court II
Presiding Judge, Wayne Circuit Court
Presiding Judge, Fayette Circuit Court
Presiding Judge, Fayette Superior Court
Presiding Judge, Rush Circuit Court
Presiding Judge, Rush Superior Court

The Clerk shall maintain such records as necessary to assure that selections are rotated in the above sequence.

In the event a judge ceases to serve as judge, the Clerk shall substitute the name of his or her successor in the above rotation.

LR81-AR01(E)-6. UNION COUNTY CASELOAD MANAGEMENT PLAN

As the only Court of record in Union County, the Union Circuit Court will handle all cases filed in the Union County Clerk's Office.

LR81-AR01(E)-7. WAYNE-UNION COUNTY CASELOAD EQUALIZATION PLAN

The Honorable Matthew R. Cox, Judge of Union Circuit Court, is assigned to sit as Judge on cases filed in the Wayne Circuit, Superior No. 1, Superior No. 2, and Superior No. 3 courts in order to attempt to equalize the caseloads among the courts in Wayne and Union counties. Judge Cox shall be available approximately one (1) day per week to preside in those cases assigned to him within such courts.

In furtherance of the goal of caseload equalization, Judge Cox will be placed in the Wayne County random computer case-filing system as to all civil plenary (CP), civil tort (CT), miscellaneous (MI), domestic relations (DR), guardianship (GU), and estate (ES) causes filed in the Wayne County Court system.

Judge Cox will be assigned cases on a pre-determined allotment among those types of cases set forth above in order that the caseloads, as assigned by type of cause, among the courts within Wayne and Union counties are as close to equal as possible. The weighted

caseload study will be utilized in determining the exact number and type of cases over which Judge Cox will preside.

As set forth in the District Nine Plan, the Judges of the Wayne and Union counties shall meet every six (6) months to review this Rule and to make any adjustments that may be necessary to better accomplish equalization.

LR81-AR15-8. COURT REPORTERS (As approved by Order of the Indiana Supreme Court on February 12, 2003, Cause Number 81S00-9810-MS-00590).

(1) *A Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

(2) *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court-reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.

(3) *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.

(4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.

(5) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

(6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.

(7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.

(8) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.

(9) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

(10) *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Union County.

(11) *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(12) *State indigent* transcript means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(13) *Private transcript* means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

SECTION TWO. SALARIES, GAP TIME AND OVERTIME PAY

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular fixed work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$3.50; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

(3) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$3.50.

(4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$3.50.

(5) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent, or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

(6) If an expedited transcript is requested (within 30 days), the court reporter may charge an additional fee per page for the typing of said transcript.

(7) A minimum fee may be charged up to \$35.00 per transcript.

(8) A copy charge of \$1.00 per page may be charged for any copies made.

(9) An additional labor charge of \$14.00 per hour (which approximates the hourly rate based upon the court reporter's annual court compensation) may be charged for the time spent binding the transcript and the exhibit binders.

(10) A reasonable charge for the office supplies required and utilized for the preparation, binding and electronic transmission of the transcript may be charged as designated in the Schedule of Supplies.

SECTION THREE. PRIVATE PRACTICE

This section is not applicable—not involved in private practice.

LR81-TR00-9. CASE MANAGEMENT CONFERENCE

(1) MANDATORY CASE MANAGEMENT CONFERENCE

- (a) A case management conference shall be required in all personal injury and medical malpractice actions.

(2) DISCRETIONARY CASE MANAGEMENT CONFERENCE

- (a) A case management conference may be ordered upon the filing of a motion by any party or on the court's own motion.

(3) CONFERENCE PROCEDURE

- (a) Within one hundred twenty (120) days of the filing of a Complaint in those cases where a case management conference is mandatory, or within thirty (30) days after otherwise being ordered to participate in a case management conference, the Plaintiff shall arrange a meeting of all parties for the following purposes:
 - i. *List of Witnesses.* Exchange lists of witnesses known to have knowledge of the facts supporting the pleadings. The parties shall thereafter be under a continuing obligation to advise opposing parties of other witnesses as they become known.
 - ii. *Documents.* Exchange all documents which are contemplated to be used in support of the pleadings. Documents later shown to have been reasonably available to a party and not exchanged may be subject to exclusion at the time of trial.
 - iii. *Other Evidence.* Exchange any other evidence reasonably available to obviate the filing of unnecessary discovery motions.
 - iv. *Settlement.* Discuss settlement of the action.

- v. *Discovery Schedule.* Agree upon a preliminary schedule for all discovery.
- vi. *Complicated Case.* Discuss whether the action is sufficiently complicated so that additional conferences may be required.

(4) CASE MANAGEMENT ORDER

- (a) Within ten (10) days after meeting, those attending are to file a Joint Case Management Order setting forth:
 - i. The likelihood of mediation and settlement;
 - ii. A detailed schedule of discovery for each party;
 - iii. A limitation on the time to join additional parties and to amend the pleadings;
 - iv. A limitation on the time to file all pre-trial motions;
 - v. Any other matters which the parties want to address; and
 - vi. A preliminary estimate of the time required for trial.

The foregoing Local Rules governing the Union Circuit Court, Union County, Indiana are hereby adopted and recommended for approval by the Indiana Supreme Court this _____ day of January, 2007.

Matthew R. Cox, Judge
Union Circuit Court